

1 BILL NO. G-90-05-11 (AS AMENDED)

2 GENERAL ORDINANCE NO. G-_____

3 AN ORDINANCE amending the Municipal Code of
4 the City of Fort Wayne, Indiana, by
5 establishing participation goals for Emerging
6 Business Enterprises in City procurement and
7 construction contracts and by creating an
8 Emerging Business Enterprise Council to assist
9 in identifying and developing Emerging
10 Business Enterprises in order to enhance their
11 participation in City contracts.

12 WHEREAS, it is the stated public policy of the
13 City of Fort Wayne to provide equal opportunities to all
14 of its citizens with respect to City contracts involving
15 the procurement of services and supplies and construction
16 projects;

17 WHEREAS, the City of Fort Wayne is committed to
18 increasing the accessibility of City contracting
19 opportunities to emerging business enterprises by
20 establishing participation goals;

21 WHEREAS, the adoption of this ordinance will
22 facilitate the enhanced use of emerging business
23 enterprises in City procurement and construction
24 contracts; and,

25 WHEREAS, it is necessary to amend the Municipal
26 Code of the City of Fort Wayne, Indiana, in order to
27 establish said contracting opportunities.

28 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON
29 COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

30 SECTION 1. That Chapter 11 of the Municipal Code of
31 the City of Fort Wayne, Indiana, of 1974, is hereby
32 amended by adding the following sections.

SECTION 2. TITLE AND GENERAL PURPOSE. This
Ordinance shall be cited as the "Emerging Business
Enterprise Ordinance." This Ordinance encourages fair
and equitable opportunities for emerging business
enterprises to participate in City procurement and

25% COTTON FIBER

construction contracts. The essential purposes of this Ordinance are:

- 1
2 A. The identification, coordination and implementation
3 of specific programs which will assist emerging
4 business enterprises with respect to fair and
5 equitable opportunities for participation in City
6 procurement and construction contracts.
- 7
8 B. The establishment of specific City goals which will
9 provide opportunities for participation by emerging
10 business enterprises in City procurement and
11 construction contracts.
- 12
13 C. To provide an incentive with respect to City
14 contracts to encourage non-economically
15 disadvantaged contractors to use the goods and/or
16 services of emerging business enterprises.
- 17
18 D. The creation of an Emerging Business Enterprise
19 Council (EBEC) to assist in the development and
20 recommendation of programs and regulations
21 concerning the continued implementation of City
22 goals as herein stated, and monitor for City's
23 progress in meeting these goals.

24
25 SECTION 3. DEFINITIONS. For the purpose of this
26 Ordinance, the following terms shall have the meanings as
27 hereinafter described:

- 28
29 A. CONTRACTOR means a separate and
30 distinguishable business entity participating
31 or seeking to participate in the performance
32 of a contract.
- B. ECONOMIC DISADVANTAGE means an individual's
ability to compete in the free enterprise
system has been reduced due to diminished
capital, credit and/or bonding opportunities,
as compared to others in the same or similar
line of business who are not economically

disadvantaged individuals, and such diminished opportunities have precluded or are likely to preclude an individual from successfully competing in the open market.

C. ECONOMICALLY DISADVANTAGED INDIVIDUAL means a person who is a citizen or lawful permanent resident of the United States and who has experienced and continues to experience substantial difficulty in achieving business-related success in the Fort Wayne area. Factors to be analyzed in determining an individual's economic disadvantage status include, but are not limited to:

- (1) access to long-term financing;
- (2) access to working capital financing;
- (3) equipment trade credit;
- (4) access to raw materials and/or supplier trade credit;
- (5) access to bonding opportunities;
- (6) failure to accumulate adequate business capital;
- (7) the financial condition and history of the business concern;
- (8) the personal financial condition and history of the individual(s) claiming disadvantaged status.

D. EMERGING BUSINESS ENTERPRISE (EBE) means a small business concern that is owned, operated and controlled by one or more economically disadvantaged individuals. An emerging business enterprise is a business which is either:

- (1) A sole proprietorship legally owned, operated and controlled by an economically disadvantaged individual.
- (2) A partnership or joint venture owned, operated and controlled by economically disadvantaged individuals who own at least 51% of the interests in the enterprise and who hold at least 51% of the voting interests of the enterprise.
- (3) A corporation owned, operated and controlled by one or more economically disadvantaged individuals who own at least 51% of the outstanding shares and who hold at least 51% of the voting interests of the corporation.

E. OWNED, OPERATED AND CONTROLLED means that the economically disadvantaged owner-operator must have at least 51% of the interest in the capital, financial risks and earnings of the

business, and the economically disadvantaged owner-operator must have day-to-day operational and managerial control of the business.

- F. SMALL BUSINESS CONCERN means a business which is independently owned and operated and which is not dominant in its local field of operation, and which has had annualized gross receipts not exceeding one million dollars (\$1,000,000.00) in two (2) of the three (3) preceding years and has been in its specific field of operation ten (10) years or less.

SECTION 4. PARTICIPATION GOALS.

- A. In order to increase the level of participation of emerging business enterprises in City contracts, the City of Fort Wayne establishes the following participation goals, consistent with law, for the utilization of emerging business enterprises:

(1) By and through its Boards and Commissions and its operating departments, the City of Fort Wayne will use its best efforts to utilize emerging business enterprises for 10% of the total dollars, through prime contracts or subcontracts, annually expended on construction projects.

(2) By and through its Boards and Commissions and its operating departments, the City of Fort Wayne will use its best efforts to utilize emerging business enterprises for 2.5% of the total dollars, through prime contracts or subcontracts, annually expended on the purchase of services and the purchase of supplies.

- B. In order to reach and maintain these goals in an efficient manner, all operating departments, all

Boards and Commissions and all non-economically disadvantaged contractors will be given a list of EBEs qualified and certified to do business with the City. Said list shall be redistributed as it is updated. Consistent with the law, each Board and Commission and operating department shall utilize the EBEs appearing on the list.

(1) On all construction projects, at least 10% of the total dollar amount must be subcontracted to certified EBEs who appear on the City's list of certified EBEs at the time each project is advertised for bids except as stated in Section 6.

(2) Any change-orders, required by the City shall not negatively impact the determination on whether the contractor is meeting the EBE goal. If the change-order increases the total contract amount by more than 10%, the contractor will remain responsible for attaining the EBE goal of the total contract amount.

C. The Contract Compliance Administrator is required to provide quarterly reports to the EBEC not later than thirty (30) calendar days after the end of the previous quarter specifying, with respect to all contracts:

(1) The dollar amounts and percentages of those contracts and subcontracts awarded to emerging business enterprises;

(2) The manner in which the goals set forth in this section are being met and, if the goals

are not being met, a discussion as to the reasons the goals are not being met;

(3) Any and all other information as may be requested by the Mayor, the Common Council or the EBEC.

D. The established commitment of the City of Fort Wayne is to comply with the participation goals herein set forth; however, due to the requirements of state law (I.C. 36-1-9, et seq. and I.C. 36-1-12 et seq.) said goals are not binding in every contract award. The participation goals set forth herein do not apply to any contract for which there is only one supplier.

E. The Emerging Business Enterprise Council (EBEC) shall develop a survey to determine the number of local EBE vendors and contractors, annually send out the survey, review the results and make recommendations to the Mayor and the Common Council concerning any necessary adjustments in the participation goals herein stated.

SECTION 5. CONDITIONAL EBE COMPLIANCE PAYMENT. To offset the administrative costs of seeking the goods and/or services of qualified EBE firms, the contractor will be eligible to receive an additional payment of \$1,000.00 (one thousand dollars) if EBE participation on a project contract meets or exceeds the 10% goal. The additional payment will be added to the contract amount and will be included in the final payment to the contractor. The contractor will be required to provide documentation to verify the dollar amount(s) paid to EBE

1 firms. The Board of Public Works will make the final
2 determination of whether or not the contractor will
3 receive the additional payment.

4 **SECTION 6. EXEMPTIONS AND WAIVERS.** Although the
5 City of Fort Wayne has established the preceding
6 participation goals, it is recognized that there may be
7 situations when the goals may not be attained. The
8 following guidelines shall be applicable:

9
10 **A. Class Exemptions.**

11 (1) **Creation of Exempt Classes of Contracts.** The
12 Chair of the EBEC, another officer of the
13 EBEC, the Administrator of Contract
14 Compliance, the Director of Purchasing and the
15 City Engineer as a committee, may recommend
16 that an entire class of contracts be made
17 exempt from the EBE participation goals
18 whenever there has been a written
19 determination, based on the results of the
20 surveys received from local EBEs, that there
21 is an insufficient number of qualified EBEs in
22 the Fort Wayne area to ensure adequate
23 competition and an expectation of reasonable
24 prices on bids or proposals within that class.

25
26 (2) **Limitation on Class Exemptions.** Any such
27 class exemption must be reviewed annually,
28 based upon the results of the surveys received
29 from local EBEs.

30 **B. EBE Retainage Provision.**

31 (1) If the contractor is in compliance with the
32 provisions of the construction contract, the City
of Fort Wayne will make payments for such work
performed and completed. However, in any case, the

1 City will retain ten percent (10%) of the total
2 contract amount to ensure satisfactory completion
3 of the contract. To ensure contractor's compliance
4 with this ordinance the contractor must sign an
5 E.B.E. Compliance Rider as part of the contract.
6 Upon final inspection and acceptance of the work,
7 and determination by the Board of Public Works that
8 the contractor has made "good faith" efforts to
9 subcontract the designated percentage of the
10 contract amount to Emerging Business Enterprises,
11 the contractor will be paid in full.

12 (2) In the event the Board of Public Works
13 determines that "good faith" efforts to comply with
14 this ordinance has not occurred, appropriate
15 reduction in the final payment to the contractor
16 will be made in the following manner:

17 (a) The contract shall be reduced by the
18 amount calculated as the difference between
19 the designated percentage and the level of
20 percentage met. Said amount shall be added to
21 the City of Fort Wayne EBE Bond Assistance
22 Fund and the contractor agrees to accept the
23 reduced amount as full payment under the terms
24 of his/her contract.

25
26 **C. Waivers and/or Reductions.**

27 A contractor shall have the right to request a
28 waiver or reduction of from the participation goal
29 requirements herein stated. The waiver/reduction request
30 may be submitted at any time up to final payment
31 application.

32 The Board of Public Works shall within two weeks of
submittal of the waiver/reduction request determine if
the contractor's request has been made in "good faith".

1 The Board of Works reserves the right to waive or reduce
2 a portion or all of the goal. The matters, among others,
3 to be given weight by the Board of Public Works in
4 arriving at a decision shall include:

- 5 (1) Type of work to be performed where the
6 contract cannot be subdivided as determined by
7 the project engineer and Administrator of
8 Contract Compliance;
- 9 (2) Availability of certified EBE businesses to
10 participate as subcontractors;
- 11 (3) Non-competitive price quotes received from
12 EBEs;
- 13 (4) EBE subcontractor failed to fulfill his/her
14 obligation in regards to:
 - 15 (a) Timely delivery of goods and/or services;
 - 16 (b) Quality of goods and/or services does not
17 meet standards set forth in bid
18 specifications;
- 19 (5) Measures taken by the contractor to comply
20 with the EBE participation goal;
- 21 (6) Such other matters as the Board of Works may
22 deem pertinent or relevant.

23 Section 7. Bond Assistance Fund.

24 The purpose of this fund is to assist emerging
25 business enterprise owner-operators in establishing good
26 histories with bonding companies in order for the EBE to
27 secure bonds through private sector bonding companies.
28 The City of Fort Wayne will provide bid and performance
29 bond assistance for work to be performed on City
30 contracts by EBEs who cannot obtain bonding and who meet
31 the established eligibility guidelines established by the
32 Board of Public Works.

EBEs who are denied bond assistance by the City may
appeal the decision by notifying the EBE Appeals

1 Subcommittee in writing within ten (10) days after
2 receiving such notification. The EBE Appeals
3 Subcommittee will consider any such request within
4 fifteen (15) days of receipt thereof. If the EBE Appeals
5 Subcommittee renders a favorable decision, the request
6 for bond assistance will be reconsidered. If the EBE
7 Appeals Subcommittee renders an unfavorable decision, the
8 EBE will be notified in writing of the decision.
9

10 **SECTION 9. EMERGING BUSINESS ENTERPRISE COUNCIL.**

11 A. There is hereby created an Emerging Business
12 Enterprise Council (EBEC) consisting of nine (9)
13 members, six (6) appointed by the Mayor and three
14 (3) appointed by the Common Council. All
15 appointments shall be made on the basis of
16 demonstrated interest in and knowledge of business,
17 legal and/or financial activities. One
18 representative from the Purchasing Department and
19 one representative from Contract Compliance will
20 serve on the Council as staff liaisons. These two
21 persons will have no voting rights.

22 All appointees must represent a broad cross-
23 section of the citizens of Fort Wayne and must be
24 persons who have demonstrated a commitment to the
25 purpose for which the EBE program has been
26 designed.

27
28 B. All EBEC members shall be appointed by the Mayor
29 and the Common Council within thirty (30) days of
30 passage and approval of this ordinance. The
31 initial appointments shall be as follows: three
32 (3) members appointed by the Mayor and one (1)
member appointed by the Common Council shall serve
an initial term of one (1) year. All other

1 appointees shall serve an initial term of two (2)
2 years. Thereafter, members shall be appointed for
3 two (2) year terms. If a vacancy occurs on the
4 EBEC by resignation or otherwise, a member shall be
5 appointed for the remainder of the term by the
6 Mayor or Common Council, depending on who appointed
7 the vacating member.

8 C. A member may be removed by the Mayor or Common
9 Council depending on who appointed the member for
10 misconduct, incapacity or three (3) unexcused
11 absences in accordance with a procedure to be
12 established by the Mayor and Common Council. The
13 procedure shall include notification and an
14 opportunity for a hearing.

15 D. Members of the EBEC shall receive no compensation
16 for time spent in attending EBEC meetings or in
17 conducting other official business of the EBEC.

18 E. No member shall vote upon any matter in which
19 she/he has a direct or indirect financial or
20 personal interest. The City Attorney or his or her
21 designee shall be the legal advisor to the EBEC.
22
23
24

25 **SECTION 9. POWERS AND DUTIES OF THE EBEC.** The
26 Emerging Business Enterprise Council shall:

27 A. Develop a survey to determine the number of local
28 EBE vendors and contractors, annually send out the
29 survey, review the results and make recommendations
30 to the Mayor and the Common Council concerning any
31 necessary adjustments in the participation goals
32 herein stated.

- 1 B. Maintain a current list of all certified emerging
2 business enterprises;
- 3 C. Provide advice and recommendations to the Mayor,
4 Board of Public Works and the Contract Compliance
5 Department for assuring participation of EBEs in
6 City contracts, subject to approval by the Mayor.
- 7
- 8 D. Recommend a grievance procedure for processing
9 complaints received from EBEs aggrieved by their
10 treatment in seeking participation in City
11 contracts, the EBE program and other matters
12 covered by this ordinance, subject to approval by
13 the Mayor;
- 14 E. Establish a communication system to enhance
15 information dissemination to emerging business
16 enterprises;
- 17 F. Assist in the arrangement of business associations
18 among emerging and established businesses;
- 19 G. Serve as a clearinghouse for information about
20 training and educational programs available to
21 economically disadvantaged individuals and emerging
22 business enterprises;
- 23 H. Serve as a clearinghouse for information about
24 financial and other resources available to
25 economically disadvantaged individuals and emerging
26 business enterprises.
- 27 I. Develop a subcommittee of three (3) members to
28 serve as liaison with the City's Community and
29 Economic Development Division and other local and
30 state economic development agencies for the purpose
31 of coordinating economic development programs for
32 emerging business enterprises;
- J. Establish a three (3) member Certification
Subcommittee which will be responsible for

1 reviewing and taking action on all applications for
2 EBE Certification.

3 K. Establish a three (3) member Appeals Subcommittee
4 which will be responsible for reviewing and taking
5 action on all grievances and complaints resulting
6 from this ordinance.

7 L. Submit an annual, written report, to the
8 Mayor and Common Council, detailing the progress
9 made in achieving the participation goals herein
10 set forth.

11 **SECTION 10. CERTIFICATION STANDARDS AND PROCEDURES.**

12 All Emerging Business Enterprise bidders, whether
13 prime contractors, subcontractors or potential
14 participants in a contract must be certified by the EBEC
15 Certification Subcommittee. In determining economic
16 disadvantage for purposes of certification, the factors
17 enumerated in Section 3 (B) and (C) above shall be
18 considered by the EBEC.

19 **SECTION 11. ENFORCEMENT**

20
21 A. All contractors shall be required to sign an E.B.E.
22 Rider herein incorporated as a part of this
23 ordinance before he/she will be awarded a City
24 contract.

25
26 B. The City will retain ten (10%) of the contract
27 amount to ensure contractor's compliance with the
28 EBE Rider.

29 C. Payment of the final 10% will be dependent upon
30 contractor's "good faith" efforts to comply with
31 the EBE Rider, and is subject to appropriate
32 reduction in the event of non-compliance as
determined by the Board of Public Works.

SECTION 12. SANCTIONS. Every City contract awarded shall contain language stating that any person or entity that misrepresents the status of any concern as an emerging business enterprise or any person as an economically disadvantaged individual in order to obtain for oneself or another any of the contracting opportunities set forth in this ordinance will be subject to one or more of the following sanctions:

- (1) Decertification,
- (2) Debarment,
- (3) Withholding of payment, or
- (4) Termination, suspension or cancellation of the contract in whole or in part.

SECTION 13. SEVERABILITY. If any provision of this ordinance or any section, sentence, clause, phrase, word or application thereof, in any circumstances is held invalid, the validity of the remainder of the ordinance and of the application of any other provision, section, sentence, clause, phrase or word shall not be affected. In the event that this ordinance is found to be in substantial conflict with any applicable state or federal law, then in that event only, this ordinance or the conflicting sections thereof shall be held invalid, and the state or federal law shall govern.

SECTION 14. EFFECTIVE DATE. This Ordinance shall be in effect upon passage and approval by the Mayor. This Ordinance shall be re-evaluated by Common Council at least (6) years after its approval by the Mayor.

Councilmember

APPROVED AS TO FORM AND LEGALITY

J. Timothy McCaulay
J. Timothy McCaulay, City Attorney

Read the first time in full and on motion by _____,
and duly adopted, read the second time by title and referred to the
Committee on _____ (and the City Plan Commission
for recommendation) and Public Hearing to be held after due legal notice, at
the Common Council Council Conference Room 128, City-County Building, Fort
Wayne,, Indiana, on _____, the _____ day of
_____, 19_____, at _____ o'clock
_____, M., E.S.T.

DATED: _____
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by _____,
and duly adopted, placed on its passage. PASSED LOST
by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	_____	_____	_____	_____
BRADBURY	_____	_____	_____	_____
EDMONDS	_____	_____	_____	_____
GiaQUINTA	_____	_____	_____	_____
HENRY	_____	_____	_____	_____
LONG	_____	_____	_____	_____
LUNSEY	_____	_____	_____	_____
RAVINE	_____	_____	_____	_____
SCHMIDT	_____	_____	_____	_____
TALARICO	_____	_____	_____	_____

DATED: _____
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) (ZONING) ORDINANCE RESOLUTION NO. _____
on the _____ day of _____, 19____

ATTEST: (SEAL)

SANDRA E. KENNEDY, CITY CLERK PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the _____ day of _____, 19____,
at the hour of _____ o'clock _____, M., E.S.T.

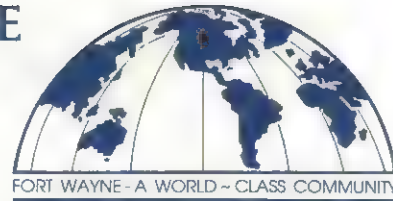
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this _____ day of _____,
19____, at the hour of _____ o'clock _____ M., E.S.T.

PAUL HELMKE, MAYOR



THE CITY OF FORT WAYNE



Paul Helmke
Mayor

MEMO May 26, 1992

TO: Fort Wayne City Council
FROM: Chuck Bailey, Contract Compliance Administrator *CB*
RE: Emerging Business Enterprise (EBE) Ordinance

Fort Wayne City Councilmembers are all aware of the local concern and legal difficulty of establishing an ordinance to ensure the participation of disadvantaged individuals and businesses in city contracts. The U.S. Supreme Court decision in the Croson case and different views locally have made the adoption of a local ordinance difficult. While the City administration recognizes the differing views of Councilmembers on this issue, we feel it is a policy matter that must be addressed by the City Council, the policy-making body. To this end, this memo has been prepared to provide you basic background information and a summary of important new features of the proposed E.B.E. ordinance.

It should be noted that we have had several discussions with the Building Contractors Association, the Associated Builders and Contractors, EBE contractors and others to get community input. We believe this new ordinance will allow the opportunity for EBE participation and ease the administration of the program for both the City and contractors.

Background:

In 1984, Fort Wayne City Council approved a Minority Business Enterprise/Women Business Enterprise ordinance, which established participation goals for Minority and women-owned businesses in City procurement and construction contracts. The ordinance expired in August, 1989.

The City Contract Compliance and Law departments began researching how a new ordinance could help insure better competition in the marketplace. The City also had to take into account a 1989 U.S. Supreme Court decision which set very narrow parameters

for how race-specific, goal-setting ordinances could be established. This is known as the "Croson decision." Finally, as part of its research, the City sent copies of a proposed ordinance to 125 entities throughout the City, including most contractors, asking for comments and input.

In May, 1990, Mayor Helmke issued Executive Order 90-01, in order to make the City's goals clear, even though a new ordinance was not ready to be introduced.

Executive Order 90-01 established the policy of providing opportunities for emerging business enterprises. Under the Order, the City began certifying E.B.E. companies, and set a goal of having 10% of city construction projects being done by E.B.E. firms. Non-E.B.E. contractors then had to pledge to subcontract with E.B.E.'s for 10% of the total contract amount. However, if that promise was not kept, there was no penalty to apply to the non-E.B.E. contractor. The new, proposed E.B.E. Ordinance now requires that any Prime contractor (a Prime is a contractor who is awarded a construction contract) must sub-contract 10% of the work to certified E.B.E.s, even if the Prime Contractor is also a certified E.B.E.

In June, 1990, the administration submitted to Council an ordinance to replace the old MBE/WBE Ordinance. It was designed to meet the requirements of the Supreme Court decision. This proposed "Emerging Business Enterprise" ordinance was to promote competition by creating business opportunities for newly-formed companies. Also in 1990, Councilmembers Charles Redd and Cletus Edmonds submitted their own version of a goal-setting ordinance, which specifically mentioned minority and women-owned companies. Both ordinances were tabled by Council in 1990, and have not been considered since then.

That does not mean the subject of helping small businesses compete has not come up in the past two years. The biggest controversy arose several months ago over a contract for construction of a new lab at the Water Filtration Plant. The low-bidder did not complete the E.B.E. pledge form in the bid packet. A higher bidder pledged nine-percent E.B.E. participation, and then challenged the Board for awarding the contract to the lower bidder who offered no E.B.E. participation.

To settle the dispute, City attorneys worked out a compromise. The low-bidder would be awarded the contract, but would have to sign a rider to that contract, pledging to meet the ten-percent participation goal or accept a penalty. The penalty would total ten-percent of the total contract amount.

From that agreement, a new policy was born. Mayor Helmke amended his Executive Order on December 19, 1991, to reflect the City's goal that each contractor subcontract at least 10% of the contracted amount to an Emerging Business Enterprise. The amended Executive Order further states that if a contractor fails to make good faith efforts at compliance, the contract shall be reduced by ten-percent.

It is this amended Executive Order that the City is operating under until City Council makes a final policy decision.

The City has also developed a waiver process for non-E.B.E. contractors to use to ask the Board of Public Works to waive the 10-percent E.B.E. goal on a particular contract.

One of the main concerns contractors raised about the new rider and waiver policy was that it created a penalty for non-compliance, but does not reward those who do comply. In response, the \$1,000 incentive provision was included in the new, proposed ordinance.

Highlights of the new ordinance:

The latest proposal for an E.B.E. ordinance is designed to help "emerging business enterprises" compete in the local marketplace. An "emerging business enterprise" is defined in the ordinance as a company owned by one or more economically disadvantaged individuals (the race or gender of the individuals is not a consideration, under the proposal).

If approved by City Council, the ordinance would set goals for E.B.E. participation in City government's construction contracts and procurement activities. The goals would be utilizing E.B.E.s for 10% of all construction work and for 2.5% of all City purchases.

The ordinance would also establish an Emerging Business Enterprise Council, made up of local citizens, which would monitor the effectiveness of the ordinance. The E.B.E.C. would also certify businesses which want to be designated as E.B.E.s.

Other features of the ordinance include:

- + A retainage provision, wherein a contractor could be penalized up to 10% of a contract's total value if the contractor does not sub-contract with certified E.B.E. companies for at least 10% of the project's work.

- + A payment of \$1,000 for contractors who comply with the 10% E.B.E. goal.
- + A waiver process wherein contractors could ask that the 10% E.B.E. goal be waived on a particular project. The waiver could be granted by the Board of Public Works for a variety of reasons including non-competitive price quotes from E.B.E.s or unavailability of certified E.B.E.s of a certain profession.
- + A Bond Assistance Fund, funded partly by any penalties assessed against prime contractors, to assist E.B.E.s in establishing good financial histories with bonding companies, so eventually the E.B.E.s can secure bonds through private sector bonding companies.

We hope this Memo is helpful to Councilmembers. If you have any questions regarding the proposed E.B.E. ordinance, please call Chuck Bailey, Contract Compliance Administrator, at 427-1370.

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE Emerging Business Enterprise Ordinance of 1992

DEPARTMENT OF REQUESTING ORDINANCE Contract Compliance

SYNOPSIS OF ORDINANCE This ordinance will ensure the participation of disadvantaged individuals and businesses in City contracts.

EFFECT OF PASSAGE Establishes a law to ensure the participation of disadvantaged individuals and businesses in City contracts.

EFFECT OF NON-PASSAGE Ensuring the participation of disadvantaged individuals and businesses in City contracts will continue at the discretion of the Mayor.

MONEY INVOLVED (Direct Cost, Expenditures, Savings) Adds an incentive payment of \$1,000.00 to each construction contract if the EBE goal is met.

ASSIGNED TO COMMITTEE (J.N.) _____

E.B.E. RIDER

THIS AGREEMENT made and entered into by and between the CITY OF FORT WAYNE, hereinafter referred to as "Owner", and _____, hereinafter referred to as "Contractor",

WITNESSETH:

WHEREAS, Contractor is the apparent low bidder on construction project commonly referred to as the _____, which project was bid under Resolution Number _____; and

WHEREAS, Contractor agrees that the goal for qualified Emerging Business Enterprises, hereinafter sometimes referred to as "E.B.E.'s" as subcontractors on this project is ____% of the contract amount; and

WHEREAS, Owner has, pursuant to Executive Order 90-01 (as amended 12/19/91), adopted a goal of at least 10% of the contract amount to Emerging Business Enterprises as defined under said Executive Order; and

WHEREAS, said Executive Order states:

"Section 2, Paragraph C. Each contractor shall be required to make a good faith effort to subcontract 10% of the contract amount to Emerging Business Enterprises on each construction contract he/she is awarded. In the event a contractor is unable to subcontract 10% of the contract amount or secure the services of an Emerging Business Enterprise, he/she will be required to submit a completed Request for Waiver form on which he/she will provide a written description of the efforts taken to comply with the participation goals."

NOW, THEREFORE, in consideration of the foregoing and of the mutual agreements hereinafter contained, the sufficiency of which consideration is hereby acknowledged, the parties hereto agree as follows:

1. Conditional award. Subject to approval by the Common Council of the City of Fort Wayne as stipulated in the construction contract to which this Rider is attached, Owner awards the construction contract to the Contractor.

2. E.B.E. Retainage requirements. If the contractor is in compliance with the provisions of the construction contract to which this Rider is attached, the Owner will make payments for such work performed and completed. However, in any such case, the Owner will retain ten percent (10%) of the total amount owing to insure satisfactory completion of the contract and to insure contractor's compliance with this E.B.E. Rider. Upon final inspection and acceptance of the work, and determination by the Fort Wayne Board of Public Works that the contractor has made a good faith effort to subcontract ___% of the contract amount to emerging business enterprises, the contractor will be paid in full.

In the event there is a determination that good faith compliance with this E.B.E. Rider has not occurred, appropriate reduction in the final payment pursuant to paragraph 6 of this E.B.E. Rider will be made.

If the contract is in excess of \$100,000, the contract will be subject to the standard Board of Public Works escrow agreement. However, payments to the CONTRACTOR are not to exceed 90% of the total contract amount until the OWNER has verified that the CONTRACTOR has made good faith efforts to attain the E.B.E. goal stipulated in this E.B.E. Rider. Payment of the final 10% of the total contract amount will be dependent upon good faith efforts to comply with this E.B.E. Rider, and subject to reduction in the event of non-compliance as provided in paragraph 6 of this E.B.E. Rider.

3. Request for Waiver. If at the time final payment application is made, contractor has not attained the ____% E.B.E. goal, contractor shall file with the final payment application a "Request for Waiver." Said Request for Waiver shall contain a written description of the efforts taken by Contractor to attain the ____% E.B.E. goal.

4. Determination of Waiver Requests. The Contract Compliance Department of the City of Fort Wayne shall examine all Requests for Waiver to determine if Contractor's efforts constitute good faith efforts to attain such goal and shall submit recommendations concerning said Requests for Waiver for the final determination of the Board of Public Works of the City of Fort Wayne.

5. Good Faith Per Se. In any case, a Contractor shall be deemed to have made good faith efforts at compliance where E.B.E.'s have been subcontracted for every sub-contract for which there are qualified E.B.E.'s available.

6. Consequence of noncompliance. In the event the Board of Public Works approves a recommendation that contractor failed to make good faith efforts at compliance, the contract shall be reduced by the amount calculated as the difference between ___% and the percentage level met. Said amount shall be added to the City of Fort Wayne E.B.E. Bond Guarantee Fund and contractor agrees to accept the reduced amount as full payment under the terms of his/her contract.

7. Waiver approved. In the event the Board of Public Works determines that a good faith effort to comply with this E.B.E. Rider has been made, the contract shall not be reduced, and the balance owing to the contractor shall be paid in full.

IN WITNESS WHEREOF, the parties have executed this E.B.E. Rider this ___ day of _____, 199__.

By:

Contractor

By:

Board of Public Works

ATTEST:

EBE REQUEST FOR WAIVER/REDUCTION FORM

The contractor may request a reduction or waiver from the participation goal if he/she can show "good faith" efforts were taken to secure the goods or services of Emerging Business Enterprises to meet the commitment. The request may be submitted at any time up to final payment request.

In determining whether or not the contractor used "good faith" efforts, the Board of Public Works shall consider the following:

- A). Whether the contract can be subdivided as determined by the project engineer and Administrator of Contract Compliance;
- B). Availability of certified EBE businesses to participate as subcontractors;
- C). Non-competitive price quotes received from EBE firms;
- D). EBE subcontractor failed to fulfill his/her obligation in regards to:
 - (a). Timely delivery of goods and/or services;
 - (b). Quality of goods and/or services did not meet standards set forth in bid specifications.
- E). Measures taken by the contractor to comply with the EBE participation goal;
- F). Such other matters as the Board of Public Works deems relevant.

Each of the following elements must be present in order to determine whether or not such a reduction or waiver is appropriate:

- 1. Documentation to show why a reduction or waiver of the goal is being sought. Documentation must include but is not necessarily limited to:
 - a. A detailed statement of efforts to identify and select portions of the project to subcontract _____

_____ ;

b. A listing of all EBE firms contacted that includes:

i) Names, addresses and telephone numbers of EBE firms solicited; _____

_____ ;

ii) Dates and time of contact _____

_____ ;

iii) Method of contact (written, telephone, transmittal of facsimile documents, etc.) _____

_____ ;

(a) If the method of contact was written a copy of the letter must be provided.

(b) If the method of contact was by telephone the name of contact person, date and time must be provided. _____

(c) If the method of contact was by transmittal or fascimile document a copy of the transmittal form must be provided.

2. If a reduction or waiver is being sought because prices quoted by EBE firms were higher than non-EBE firms, the contractor must provide the following information:

EBE REQUEST FOR WAIVER
PAGE 3 of 4

- i) Detailed statement of the work identified for EBE participation for which the contractor asserts the EBE quote(s) were higher than non-EBE firms _____

_____;
- ii) A listing of all potential subcontractors contacted for price quotes on that work item and the prices quoted _____

_____;
- iii) Detailed statement which summarizes direct negotiations with EBE firms for specific portions of the work and indicates why negotiations were unsuccessful _____

_____;
- iv) Other documentation as requested which demonstrates to the satisfaction of the Board of Public Works that the EBE quotes are higher than non-EBE firms.

The Board of Public Works' determination for granting a reduction or waiver of the goal because of higher quotes from EBE firms will be based on factors that include, but are not limited to the following:

- i) The project engineer's estimate for the work under a specific subcontract;
- ii) The contractor's own estimate for the work under the subcontract;
- iii) An average of the bona fide prices quoted for the subcontract;
- iv) Demonstrated increase in other contract costs as a result of subcontracting to EBE firm(s)

Page 4 of 4

I _____ request a reduction of _____% from the EBE participation goal. This request is being sought for the following reason(s) _____

[illegible]

Signed by: _____ Title: _____

Date: _____

DIGEST SHEET

TITLE OF ORDINANCE GENERAL ORDINANCE

DEPARTMENT REQUESTING ORDINANCE MAYOR'S OFFICE

G-90-05-11

SYNOPSIS OF ORDINANCE THIS ORDINANCE ESTABLISHES PARTICIPATION

GOALS FOR EMERGING BUSINESS ENTERPRISES IN CITY PROCUREMENT AND

CONSTRUCTION CONTRACTS. THE ORDINANCE ALSO CREATES AN EMERGING

BUSINESS ENTERPRISE COUNCIL TO ASSIST IN IDENTIFYING AND DEVELOPING

EMERGING BUSINESS IN ORDER TO ENHANCE THEIR PARTICIPATION

IN CITY CONTRACTS.

EFFECT OF PASSAGE EMERGING BUSINESSES WILL PARTICIPATE TO A GREATER

DEGREE IN CITY CONTRACTS.

EFFECT OF NON-PASSAGE PARTICIPATION OF EMERGING BUSINESSES IN CITY

CONTRACTS WILL BE MINIMAL.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) _____

ASSIGNED TO COMMITTEE (PRESIDENT) _____

BILL NO. G-90-05-11 (AS AMENDED)

REPORT OF THE COMMITTEE ON
THE COMMITTEE OF THE WHOLE

DONALD J. SCHMIDT, CHAIR
CLETUS R. EDMONDS, VICE CHAIR
ALL COUNCIL MEMBERS

*Walt
aug 11
Gilled
7-28-90*

WE, YOUR COMMITTEE ON THE COMMITTEE OF THE WHOLE TO WHOM WAS
REFERRED AN (ORDINANCE) (~~RESOLUTION~~) EMERGING BUSINESS
ENTERPRISE (EBE)

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~)

<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>	<u>NO REC</u>
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DATED:

Sandra E. Kennedy
City Clerk

1 BILL NO. G-90-05-11 (AS AMENDED)

2 GENERAL ORDINANCE NO. G-_____

3 AN ORDINANCE amending the Municipal
4 Code of the City of Fort Wayne,
5 Indiana, by establishing participation
6 goals for Emerging Business
7 Enterprises in City procurement and
8 construction contracts and by creating
9 an Emerging Business Enterprise
10 Council to assist in identifying and
11 developing Emerging Business
12 Enterprises in order to enhance their
13 participation in City contracts.

14 WHEREAS, it is the stated public policy of the City of
15 Fort Wayne to provide equal opportunities to all of its
16 citizens with respect to City contracts involving the
17 procurement of services and supplies and construction
18 projects;

19 WHEREAS, the City of Fort Wayne is committed to
20 increasing the accessibility of City contracting opportunities
21 to emerging business enterprises by establishing participation
22 goals;

23 WHEREAS, the adoption of this ordinance will facilitate
24 the enhanced use of emerging business enterprises in City
25 procurement and construction contracts; and,

26 WHEREAS, it is necessary to amend the Municipal Code of
27 the City of Fort Wayne, Indiana, in order to establish said
28 contracting opportunities.

29 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
30 THE CITY OF FORT WAYNE, INDIANA:

31 SECTION 1. That Chapter 11 of the Municipal Code of
32 the City of Fort Wayne, Indiana, of 1974, is hereby amended by
adding the following sections.

SECTION 2. TITLE AND GENERAL PURPOSE. This Ordinance
shall be cited as the "Emerging Business Enterprise Ordinance
of 1990." This Ordinance encourages fair and equitable
opportunities for emerging business enterprises to participate
in city procurement and construction contracts. The essential
purposes of this Ordinance are:

- 1 A. The identification, coordination and
2 implementation of specific programs which will
3 assist emerging business enterprises with respect
4 to fair and equitable opportunities for
5 participation in city procurement and construction
6 contracts.
- 7 B. The establishment of specific City goals which
8 will provide opportunities for participation by
9 emerging business enterprises in city procurement
10 and construction contracts.
- 11 C. To provide incentives with respect to City
12 Contracts, including training credits, to
13 encourage economically disadvantaged individuals
14 to participate in a certified business educational
15 and training program and to encourage
16 noneconomically disadvantaged contractors to use
17 or subcontract work to emerging business
18 enterprises.
- 19 D. The creation of an Emerging Business Enterprise
20 Council (EBEC).

21 SECTION 3. DEFINITIONS. For the purpose of this
22 Ordinance, the following terms shall have the meanings as
23 hereinafter described:

- 24 (a) ACCEPTABLE BUSINESS PLAN means a plan that
25 includes current descriptions of the business
26 concern and its services, financial history and
27 projection, management and personnel strategies,
28 market information, and other information as
29 required.
- 30 (b) CERTIFIED BUSINESS EDUCATIONAL AND TRAINING
31 PROGRAM means an organized course of study or
32 seminar in the financial and business aspects of
33 owning and successfully operating a business
34 enterprise as offered by the Small Business
35 Development Center, the Fort Wayne Chamber of
36 Commerce, the City of Fort Wayne's Department of
37 Economic Development and any other similar entity.
- 38 (c) CONTRACTOR means a separate and distinguishable
39 business entity participating or seeking to
40 participate in the performance of a contract.
- 41 (d) ECONOMIC DISADVANTAGE means an individual's
42 ability to compete in the free enterprise system
43 has been reduced due to diminished capital, credit
44 and/or bonding opportunities, as compared to
45 others in the same or similar line of business who
46 are not economically disadvantaged individuals,
47 and such diminished opportunities have precluded
48 or are likely to preclude an individual from
49 successfully competing in the open market.
- 50 (e) ECONOMICALLY DISADVANTAGED INDIVIDUAL means a
51 person who is a citizen or lawful permanent
52 resident of the United States and who has
53 experienced and continues to experience
54 substantial difficulty in achieving business-
55 related success in the Fort Wayne area. Factors
56 to be analyzed in determining an individual's
57 economic disadvantage status include, but are not
58 limited to:

- (1.) access to long-term financing;
- (2.) access to working capital financing;
- (3.) equipment trade credit;
- (4.) access to raw materials and/or supplier trade credit;
- (5.) access to bonding opportunities;
- (6.) failure to accumulate adequate business capital;
- (7.) the financial condition and history of the business concern;
- (8.) the personal financial condition and history of the individual(s) claiming disadvantaged status.

(f) EMERGING BUSINESS ENTERPRISE (EBE) means a small business concern that is owned, operated and controlled by one or more economically disadvantaged individuals. An emerging business enterprise is a business which is either:

- (1) A sole proprietorship legally owned, operated and controlled by an economically disadvantaged individual.
- (2) A partnership or joint venture owned, operated and controlled by economically disadvantaged individuals who own at least 51% of the interests in the enterprise and who hold at least 51% of the voting interests of the enterprise.
- (3) A corporation owned, operated and controlled by one or more economically disadvantaged individuals who own at least 51% of the outstanding shares and who hold at least 51% of the voting interests of the corporation.

(g) OWNED, OPERATED AND CONTROLLED means that the economically disadvantaged owner-operator must have at least 51% of the interest in the capital, financial risks and earnings of the business, and the economically disadvantaged owner-operator must have day-to-day operational and managerial control of the business.

(h) SMALL BUSINESS CONCERN means a business which is independently owned and operated and which is not dominant in its local field of operation, and which has had annualized gross receipts not exceeding five million dollars (\$5,000,000.00) in two (2) of the three (3) preceding years and has been in its specific field of operation ten (10) years or less.

SECTION 4. EMERGING BUSINESS ENTERPRISE PROGRAM. An

Emerging Business Enterprise Program is created: 1) to assist economically disadvantaged individuals and emerging business enterprises in participating in full and open competition in the City of Fort Wayne; 2) to increase

1 opportunities for education and training of economically
2 disadvantaged individuals; and 3) to enhance opportunities
3 for economically disadvantaged individuals to successfully
4 compete as independent entrepreneurs in the public and private
5 sectors of Fort Wayne's economy.

6 This program shall apply to all City contracts and
7 shall include the development of programs geared toward
8 increasing EBE participation in City contracts.

9 SECTION 5. PARTICIPATION GOALS

10 a) In order to increase the level of par-
11 ticipation of emerging business enterprises in City
12 contracts, the City of Fort Wayne establishes the
13 following participation goals, consistent with law, for
14 the utilization of emerging business enterprises:

15 (1) By and through its Boards and
16 Commissions and its operating departments,
17 the City of Fort Wayne will use its best
18 efforts to utilize emerging business
19 enterprises for 10% of the total dollars,
20 through prime contracts or subcontracts,
21 annually expended on construction projects.

22 (2) By and through its Boards and
23 Commissions and its operating departments,
24 the City of Fort Wayne will use its best
25 efforts to utilize emerging business
26 enterprises for 2.5% of the total dollars,
27 through prime contracts or subcontracts,
28 annually expended on the purchase of services
29 and the purchase of supplies.

30 (b) In order to reach and maintain these goals in
31 an efficient manner, all operating departments, all
32 Boards and Commissions and all non-economically
disadvantaged contractors will be given a list of EBEs
qualified and certified to do business with the City.
Said list shall be redistributed as it is updated.

1 Consistent with the law, each Board and Commission and
2 operating department shall utilize the EBEs appearing
3 on the list.

4 (1) On all construction projects, at least
5 10% of the total dollar amount must be
6 subcontracted to a certified EBE.

7 (2) If, at the end of the first quarter, the
8 documentation reveals that the 10% annual
9 goal may not be achieved, the Administrator
10 of Contract Compliance, in conjunction with
11 the EBEC, may recommend that the % of total
12 dollars to be subcontracted to EBEs during
13 the remaining three quarters, per
14 construction project, be increased by an
15 amount to ensure that the annual goal is
16 achieved.

17 (c) The Contract Compliance Administrator is
18 required to provide quarterly reports to the EBEC not
19 later than thirty (30) calender days after the end of
20 the previous quarter specifying, with respect to all
21 contracts:

22 (1.) The dollar amounts and percentages of
23 those contracts and subcontracts awarded to
24 emerging business enterprises;

25 (2.) The manner in which the goals set forth
26 in this section are being met and, if the
27 goals are not being met, a discussion as to
28 the reasons the goals are not being met;

29 (3.) Any and all other information as may
30 be requested by the Mayor, the Common Council
31 or the EBEC.

32 (d) The established commitment of the City of
Fort Wayne is to comply with the participation goals
herein set forth; however, due to the requirements of
state law (I.C. 36-1-9, et seq. and I.C. 36-1-12 et

seq.) said goals are not binding in every contract award. The participation goals set forth herein do not apply to any contract for which there is only one supplier.

(e) The Emerging Business Enterprise Council (EBEC) shall develop a survey to determine the number of local EBE vendors and contractors, annually send out the survey, review the results and make recommendations to the Mayor and the Common Council concerning any necessary adjustments in the participation goals herein stated.

(f) Through its Department of Contract Compliance, the City of Fort Wayne will initiate a study to be undertaken in 1991 to compile, analyze and review statistical and anecdotal information to determine if past and current gender and race discrimination limit the ability of women and minorities to effectively compete for City contracts.

SECTION 6. EXEMPTIONS AND WAIVERS

Although the City of Fort Wayne has established the preceding participation goals, it is recognized that there may be situations when the goals may not be attained. The following guidelines shall be applicable:

(1) Class Exemptions

(a) Creation of Exempt Classes of Contracts. The Chair of the EBEC, another officer of the EBEC, the Administrator of Contract Compliance, the Director of Purchasing and the Clerk of the Board of Public Works, as a committee, may recommend that an entire class of contracts be made exempt from the EBE participation goals whenever there has been a written determination, based on the results of the surveys received from local EBECs, that there is an insufficient number of qualified EBECs in the Fort Wayne area to ensure adequate

1 competition and an expectation of reasonable
2 prices on bids or proposals within that class.

3 (b) Limitation on Class Exemptions. Any such
4 class exemption must be reviewed annually, based
5 upon the results of the surveys received from
6 local EBEs.

7 (2) Waivers

8 A contractor shall have the right to request a
9 waiver from the participation goal requirements herein
10 stated. The waiver request must be submitted with the
11 contractor's bid package. The Administrator of
12 Contract Compliance shall recommend to the Board of
13 Public Works that the waiver be granted when the
14 contractor demonstrates that there has been a good
15 faith effort, as determined by the Administrator of
16 Contract Compliance and the EBEC, to comply with the
17 goals for EBE participation.

18 SECTION 7. EMERGING BUSINESS ENTERPRISE PROGRAM
19 INCENTIVES.

20 In order to encourage economically disadvantaged
21 individuals to enroll and participate in certified business
22 educational and training programs and to encourage non-
23 economically disadvantaged contractors to subcontract work to
24 economically disadvantaged individuals and emerging business
25 enterprises, incentives will be provided with respect to City
26 contracts, including training credits and a bond guarantee
27 program.

28 (a) TRAINING CREDITS. In determining the amount
29 of the bid for a City contract, a training credit of
30 five percent (5%) of that portion of a bid to be
31 performed by an emerging business enterprise whose
32 disadvantaged owner-operator is enrolled in or who has
successfully completed a certified business educational
and training program or who has submitted an acceptable
business plan, shall be applied.

1 (1) The training credit shall apply to
2 emerging business enterprises from the date the
3 disadvantaged owner-operator completes a certified
4 training program or from the date the disadvantaged
5 owner-operator submits an acceptable business plan to
6 the City's Department of Economic Development. Any
7 individual participating in a certified training
8 program shall authorize the training program staff to
9 submit reports stating his or her progress, in the
10 program, to the Contract Compliance Administrator. The
11 training credit shall be available to the EBE for no
12 more than twenty-four (24) months from the date herein
13 stated above.

14 (2) Training credit availability shall be
15 stated in the bid specifications and such credit shall
16 be used in determining the amount of the bid.

17 (b) BOND GUARANTEE PROGRAM. The City of Fort
18 Wayne will guarantee bid and performance bonds for work
19 to be performed on City contracts that meet CDBG
20 eligibility guidelines when CDBG funds are utilized to
21 guarantee a bond and other guidelines required from
22 separate funding sources, as may be applicable. The
23 bond guarantee program is geared to assist emerging
24 business enterprise owner-operators who are enrolled in
25 or who have successfully completed a certified training
26 program or who have submitted an acceptable business
27 plan. The Director of Community and Economic
28 Development will establish guidelines applicable to
29 program participation.

30 The purpose of this program is to assist emerging
31 business enterprise owner-operators in establishing
32 good histories with bonding companies in order for the
 EBE to secure bonds through private sector bonding
 companies.

SECTION 8. EMERGING BUSINESS ENTERPRISE COUNCIL.

(a) There is hereby created an Emerging Business Enterprise Council (EBEC) consisting of nine (9) members, six (6) appointed by the Mayor and three (3) appointed by the Common Council. Three (3) of the Mayor's appointees must be members of the Minority Business Affairs Committee of the Fort Wayne Chamber of Commerce. All appointments shall be made on the basis of demonstrated interest in and knowledge of business, legal and/or financial activities. One representative from the Purchasing Department and one representative from Contract Compliance will serve on the Council as staff liaisons. These two persons will have no voting rights.

All appointees must represent a broad cross-section of the citizens of Fort Wayne and must be persons who have demonstrated a commitment to the purpose for which the EBE program has been designed.

(b) All EBEC members shall be appointed by the Mayor and the Common Council within thirty (30) days of passage and approval of this ordinance. The initial appointments shall be as follows: three (3) members appointed by the Mayor and one (1) member appointed by the Common Council shall serve an initial term of one (1) year. All other appointees shall serve an initial term of two (2) years. Thereafter, members shall be appointed for two (2) year terms. If a vacancy occurs on the EBEC by resignation or otherwise, a member shall be appointed for the remainder of the term by the Mayor or Common Council, depending on who appointed the vacating member.

(c) A member may be removed by the Mayor or Common Council depending on who appointed the member for misconduct, incapacity or neglect of duty in accordance with a procedure to be established by the

1 Mayor and Common Council. The procedure shall include
2 notification and an opportunity for a hearing.

3 (d) Members of the EBEC shall receive no
4 compensation for time spent in attending EBEC meetings
5 or in conducting other official business of the EBEC.

6 (e) No member shall vote upon any matter in which
7 s/he has a direct or indirect financial or personal
8 interest. The City Attorney or his or her designee
9 shall be the legal advisor to the EBEC.

10 SECTION 9. POWERS AND DUTIES OF THE EBEC. The
11 Emerging Business Enterprise Council shall:

12 (a) Develop a survey to determine the number of
13 local EBE vendors and contractors, annually send out
14 the survey, review the results and make recommendations
15 to the Mayor and the Common Council concerning any
16 necessary adjustments in the participation goals herein
17 stated.

18 (b) Maintain a current list of all certified
19 emerging business enterprises;

20 (c) Develop rules, regulations and procedures for
21 assuring participation of EBES in City contracts,
22 subject to approval by the Mayor.

23 (d) Assist the Administrator of Contract
24 Compliance in developing rules, regulations and
25 procedures governing requests from contractors for a
26 waiver of the participation goals, subject to approval
27 by the Mayor;

28 (e) Develop a grievance procedure for processing
29 complaints received by an EBE aggrieved by its
30 treatment in seeking participation in City contracts,
31 the EBE program and other matters covered by this
32 ordinance, subject to approval by the Mayor;

(f) Establish a communication system to enhance
information dissemination to emerging business
enterprises;

1 (g) Assist in the arrangement of business
2 associations among emerging and established businesses;

3 (h) Serve as a clearinghouse for information
4 about training and educational programs available to
5 economically disadvantaged individuals and emerging
6 business enterprises;

7 (i) Serve as a clearinghouse for information
8 about financial and other resources available to
9 economically disadvantaged individuals and emerging
10 business enterprises.

11 (j) Develop a subcommittee of four (4) members to
12 serve as liaison with the City's Community and Economic
13 Development Division and other local and state economic
14 development agencies for the purpose of coordinating
15 economic development programs for emerging business
16 enterprises;

17 (k) Submit an annual, written report, to the
18 Mayor and Common Council, detailing the progress made
19 in achieving the participation goals herein set forth.

20 SECTION 10. CERTIFICATION STANDARDS AND PROCEDURES.

21 All emerging business enterprise bidders, prime
22 contractor, subcontractors and potential participants in a
23 contract must be certified by the Administrator of Contract
24 Compliance. In determining economic disadvantage for purposes
25 of certification, the factors enumerated in Section 3(d) and
26 (e), above shall be considered.

27 SECTION 11. ENFORCEMENT

28 (a) If the Administrator of Contract Compliance
29 determines that a contractor has failed to comply with
30 the terms of this Ordinance while working on a City
31 contract, the Administrator of Contract Compliance
32 shall serve written notice of such non-compliance on
the contractor.

(b) The contractor determined to be in non-
compliance shall meet with the Administrator of

Contract Compliance within five (5) working days of the written notice in order to determine a method of correcting the deficiencies and the time period within which such remedy shall become effective. If the remedy is not agreed upon within the five (5) working days, the Administrator of Contract Compliance shall recommend the remedy for correcting the deficiencies and send written notification to the contractor of such recommendation. If the contractor does not implement the recommendation as prescribed by the Administrator of Contract Compliance within thirty (30) calendar days of receipt of said recommendation, the Board of Public Works will impose one or more of the following sanctions:

- (1) Withholding of payments,
- (2) Termination, suspension or cancellation of the contract in whole or in part, or
- (3) Debarment.

SECTION 12. SANCTIONS. Every City contract awarded shall contain language stating that any person or entity that misrepresents the status of any concern as an emerging business enterprise or any person as an economically disadvantaged individual in order to obtain for oneself or another any of the contracting opportunities set forth in this ordinance will be subject to one or more of the following sanctions:

- (1) Decertification,
- (2) Debarment,
- (3) Withholding of payment, or
- (4) Termination, suspension or cancellation of the contract in whole or in part.

SECTION 13. SEVERABILITY. If any provision of this ordinance or any section, sentence, clause, phrase, work or application thereof, in any circumstances is held invalid, the validity of the remainder of the ordinance and of the

1 application of any other provision, section, sentence, clause,
2 phrase or word shall not be affected. In the event that this
3 ordinance is found to be in substantial conflict with any
4 applicable state or federal law, then in that event only, this
5 ordinance or the conflicting sections thereof shall be held
6 invalid, and the state or federal law shall govern.

7 SECTION 14. EFFECTIVE DATE. This Ordinance shall be
8 in effect upon passage and approval by the Mayor. This
9 Ordinance shall be re-evaluated by Common Council (6) years
10 after its approval by the Mayor, at which time the ordinance
11 shall lapse unless reinstated.

12
13 
14 Councilmember

15 APPROVED AS TO FORM
16 AND LEGALITY

17 
18 J. Timothy McCaulay, City Attorney
19
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AN ORDINANCE amending the Municipal Code of the City of Fort Wayne, Indiana, by establishing participation goals for Emerging Business Enterprises in City procurement and construction contracts and by creating an Emerging Business Enterprise Council to assist in identifying and developing Emerging Business Enterprises in order to enhance their participation in City contracts.

WHEREAS, it is the stated public policy of the City of Fort Wayne to provide equal opportunities to all of its citizens with respect to City contracts involving the procurement of services and supplies and construction projects;

WHEREAS, the City of Fort Wayne is committed to increasing the accessibility of City contracting opportunities to emerging business enterprises by establishing participation goals;

WHEREAS, the adoption of this ordinance will facilitate the enhanced use of emerging business enterprises in City procurement and construction contracts; and,

WHEREAS, it is necessary to amend the Municipal Code of the City of Fort Wayne, Indiana, in order to establish said contracting opportunities.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That Chapter 11 of the Municipal Code of the City of Fort Wayne, Indiana, of 1974, is hereby amended by adding the following sections.

SECTION 2. TITLE AND GENERAL PURPOSE. This Ordinance shall be cited as the "Emerging Business Enterprise Ordinance of 1990." This Ordinance encourages fair and equitable opportunities for emerging business enterprises to participate

in city procurement and construction contracts. The essential purposes of this Ordinance are:

- A. The identification, coordination and implementation of specific programs which will assist emerging business enterprises with respect to fair and equitable opportunities for participation in city procurement and construction contracts.
- B. The establishment of specific City goals which will provide opportunities for participation by emerging business enterprises in city procurement and construction contracts.
- C. To provide incentives with respect to City Contracts, including training credits, to encourage economically disadvantaged individuals to participate in a certified business educational and training program and to encourage noneconomically disadvantaged contractors to use or subcontract work to emerging business enterprises.
- D. The creation of an Emerging Business Enterprise Council (EBEC).

SECTION 3. DEFINITIONS. For the purpose of this Ordinance, the following terms shall have the meanings as hereinafter described:

- (a) ACCEPTABLE BUSINESS PLAN means a plan that includes current descriptions of the business concern and its services, financial history and projection, management and personnel strategies, market information, and other information as required.
- (b) CERTIFIED BUSINESS EDUCATIONAL AND TRAINING PROGRAM means an organized course of study or seminar in the financial and business aspects of owning and successfully operating a business enterprise as offered by the Small Business Development Center, the Fort Wayne Chamber of Commerce, the City of Fort Wayne's Department of Economic Development and any other similar entity.
- (c) CONTRACTOR means a separate and distinguishable business entity participating or seeking to participate in the performance of a contract.
- (d) ECONOMIC DISADVANTAGE means an individual's ability to compete in the free enterprise system has been reduced due to diminished capital, credit and/or bonding opportunities, as compared to others in the same or similar line of business who are not economically disadvantaged individuals, and such diminished opportunities have precluded or are likely to preclude an individual from successfully competing in the open market.
- (e) ECONOMICALLY DISADVANTAGED INDIVIDUAL means a person who is a citizen or lawful permanent resident of the United States and who has experienced and continues to experience substantial difficulty in achieving business-related success in the Fort Wayne area. Factors

to be analyzed in determining an individual's economic disadvantage status include, but are not limited to:

- (1.) access to long-term financing;
- (2.) access to working capital financing;
- (3.) equipment trade credit;
- (4.) access to raw materials and/or supplier trade credit;
- (5.) access to bonding opportunities;
- (6.) failure to accumulate adequate business capital;
- (7.) the financial condition and history of the business concern;
- (8.) the personal financial condition and history of the individual(s) claiming disadvantaged status.

(f) EMERGING BUSINESS ENTERPRISE (EBE) means a small business concern that is owned, operated and controlled by one or more economically disadvantaged individuals. An emerging business enterprise is a business which is either:

- (1) A sole proprietorship legally owned, operated and controlled by an economically disadvantaged individual.
- (2) A partnership or joint venture owned, operated and controlled by economically disadvantaged individuals who own at least 51% of the interests in the enterprise and who hold at least 51% of the voting interests of the enterprise.
- (3) A corporation owned, operated and controlled by one or more economically disadvantaged individuals who own at least 51% of the outstanding shares and who hold at least 51% of the voting interests of the corporation.

(g) OWNED, OPERATED AND CONTROLLED means that the economically disadvantaged owner-operator must have at least 51% of the interest in the capital, financial risks and earnings of the business, and the economically disadvantaged owner-operator must have day-to-day operational and managerial control of the business.

(h) SMALL BUSINESS CONCERN means a business which is independently owned and operated and which is not dominant in its local field of operation, and which has had annualized gross receipts not exceeding five million dollars (\$5,000,000.00) in two (2) of the three (3) preceding years and has been in its specific field of operation ten (10) years or less.

SECTION 4. EMERGING BUSINESS ENTERPRISE PROGRAM. An Emerging Business Enterprise Program is created: 1) to assist economically disadvantaged individuals and emerging

1 business enterprises in participating in full and open
2 competition in the City of Fort Wayne; 2) to increase
3 opportunities for education and training of economically
4 disadvantaged individuals; and 3) to enhance opportunities
5 for economically disadvantaged individuals to successfully
6 compete as independent entrepreneurs in the public and private
7 sectors of Fort Wayne's economy.

8 This program shall apply to all City contracts and
9 shall include the development of programs geared toward
10 increasing EBE participation in City contracts.

11 SECTION 5. PARTICIPATION GOALS

12 a) In order to increase the level of par-
13 ticipation of emerging business enterprises in City
14 contracts, the City of Fort Wayne establishes the
15 following participation goals, consistent with law, for
16 the utilization of emerging business enterprises:

17 (1) By and through its Boards and
18 Commissions and its operating departments,
19 the City of Fort Wayne will use its best
20 efforts to utilize emerging business
21 enterprises for 10% of the total dollars,
22 through prime contracts or subcontracts,
23 annually expended on construction projects.

24 (2) By and through its Boards and
25 Commissions and its operating departments,
26 the City of Fort Wayne will use its best
27 efforts to utilize emerging business
28 enterprises for 2.5% of the total dollars,
29 through prime contracts or subcontracts,
30 annually expended on the purchase of services
31 and the purchase of supplies.

32 (b) In order to reach and maintain these goals in
an efficient manner, all operating departments, all
Boards and Commissions and all non-economically
disadvantaged contractors will be given a list of EBEs

1 qualified and certified to do business with the City.
2 Said list shall be redistributed as it is updated.
3 Consistent with the law, each Board and Commission and
4 operating department shall utilize the EBEs appearing
5 on the list.

6 (1) On all construction projects, at least
7 10% of the total dollar amount must be
8 subcontracted to a certified EBE.

9 (2) If, at the end of the first quarter, the
10 documentation reveals that the 10% annual
11 goal may not be achieved, the Administrator
12 of Contract Compliance, in conjunction with
13 the EBEC, may recommend that the % of total
14 dollars to be subcontracted to EBEs during
15 the remaining three quarters, per
16 construction project, be increased by an
17 amount to ensure that the annual goal is
18 achieved.

19 (c) The Contract Compliance Administrator is
20 required to provide quarterly reports to the EBEC not
21 later than thirty (30) calendar days after the end of
22 the previous quarter specifying, with respect to all
23 contracts:

24 (1.) The dollar amounts and percentages of
25 those contracts and subcontracts awarded to
26 emerging business enterprises;

27 (2.) The manner in which the goals set forth
28 in this section are being met and, if the
29 goals are not being met, a discussion as to
30 the reasons the goals are not being met.

31 (3.) The goals herein stated shall be
32 reviewed annually, by the EBEC and adjusted,
if necessary, based on the number of local
emerging business enterprises in the

construction industry and the number of local emerging business enterprise suppliers.

(4.) Any and all other information as may be requested by the Mayor, the Common Council or the EBEC.

(d) The established commitment of the City of Fort Wayne is to comply with the participation goals herein set forth; however, due to the requirements of state law (I.C. 36-1-9, et seq. and I.C. 36-1-12 et seq.) said goals are not binding in every contract award. The participation goals set forth herein do not apply to any contract for which there is only one supplier.

(e) Through its Department of Contract Compliance, the City of Fort Wayne will initiate a study to be undertaken in 1990 to compile, analyze and review statistical and anecdotal information to determine if past and current gender and race discrimination limit the ability of women and minorities to effectively compete for City contracts.

SECTION 6. EXEMPTIONS AND WAIVERS

Although the City of Fort Wayne has established the preceding participation goals, it is recognized that there may be situations when the goals may not be attained. The following guidelines shall be applicable:

(1) Class Exemptions

(a) Creation of Exempt Classes of Contracts. The EBEC, the Administrator of Contract Compliance, the Director of Purchasing and the Clerk, Board of Public Works, as a committee, may recommend that an entire class of contracts be made exempt from the EBE participation goals whenever there has been a written determination, based on the results of the surveys received from local EBES, that there is an insufficient number of qualified EBES

1 in the Fort Wayne area to ensure adequate
2 competition and an expectation of reasonable
3 prices on bids or proposals within that class.

4 (b) Limitation on Class Exemptions. Any such
5 class exemption must be reviewed annually, based
6 upon the results of the surveys received from
7 local EBEs.

8 (2) Waivers

9 A contractor shall have the right to request a
10 waiver from the participation goal requirements herein
11 stated. The waiver request must be submitted with the
12 contractor's bid package. The Administrator of
13 Contract Compliance shall recommend that the waiver be
14 granted when the contractor demonstrates that there has
15 been a good faith effort, as determined by the
16 Administrator of Contract Compliance and the EBEC, to
17 comply with the goals for EBE participation.

18 SECTION 7. EMERGING BUSINESS ENTERPRISE PROGRAM
19 INCENTIVES.

20 In order to encourage economically disadvantaged
21 individuals to enroll and participate in certified business
22 educational and training programs and to encourage non-
23 economically disadvantaged contractors to subcontract work to
24 economically disadvantaged individuals and emerging business
25 enterprises, incentives will be provided with respect to City
26 contracts, including training credits and a bond guarantee
27 program.

28 (a) TRAINING CREDITS. In determining the amount
29 of the bid for a City contract, a training credit of
30 five percent (5%) of that portion of a bid to be
31 performed by an emerging business enterprise whose
32 disadvantaged owner-operator is enrolled in or who has
successfully completed a certified business educational
and training program or who has submitted an acceptable
business plan, shall be applied.

(1) The training credit shall apply to emerging business enterprises from the date the disadvantaged owner-operator completes a certified training program or from the date the disadvantaged owner-operator submits an acceptable business plan to the City's Department of Economic Development. Any individual participating in a certified training program shall authorize the training program staff to submit reports stating his or her progress, in the program, to the Contract Compliance Administrator. The training credit shall be available to the EBE for no more than twenty-four (24) months from the date herein stated above.

(2) Training credit availability shall be stated in the bid specifications and such credit shall be used in determining the amount of the bid.

(b) BOND GUARANTEE PROGRAM. The City of Fort Wayne will guarantee bid and performance bonds for work to be performed on City contracts that meet CDBG eligibility guidelines when CDBG funds are utilized to guarantee a bond and other guidelines required from separate funding sources, as may be applicable. The bond guarantee program is geared to assist emerging business enterprise owner-operators who are enrolled in or who have successfully completed a certified training program or who have submitted an acceptable business plan. The Director of Community and Economic Development will establish guidelines applicable to program participation.

The purpose of this program is to assist emerging business enterprise owner-operators in establishing good histories with bonding companies in order for the EBE to secure bonds through private sector bonding companies.

SECTION 8. EMERGING BUSINESS ENTERPRISE COUNCIL.

(a) There is hereby created an Emerging Business Enterprise Council (EBEC) consisting of nine (9) members, six (6) appointed by the Mayor and three (3) appointed by the Common Council. Three (3) of the Mayor's appointees must be members of the Minority Business Affairs Committee of the Fort Wayne Chamber of Commerce. All appointments shall be made on the basis of demonstrated interest in and knowledge of business, legal and/or financial activities. One representative from the Purchasing Department and one representative from Contract Compliance will serve on the Council as staff liaisons. These two persons will have no voting rights.

All appointees must represent a broad cross-section of the citizens of Fort Wayne and must be persons who have demonstrated a commitment to the purpose for which the EBE program has been designed.

(b) All EBEC members shall be appointed by the Mayor and the Common Council within thirty (30) days of passage and approval of this ordinance. The initial appointments shall be as follows: three (3) members appointed by the Mayor and one (1) member appointed by the Common Council shall serve an initial term of one (1) year. All other appointees shall serve an initial term of two (2) years. Thereafter, members shall be appointed for two (2) year terms. If a vacancy occurs on the EBEC by resignation or otherwise, a member shall be appointed for the remainder of the term by the Mayor or Common Council, depending on who appointed the vacating member.

(c) A member may be removed by the Mayor or Common Council depending on who appointed the member for misconduct, incapacity or neglect of duty in

1 accordance with a procedure to be established by the
2 Mayor and Common Council. The procedure shall include
3 notification and an opportunity for a hearing.

4 (d) Members of the EBEC shall receive no
5 compensation for time spent in attending EBEC meetings
6 or in conducting other official business of the EBEC.

7 (e) No member shall vote upon any matter in which
8 s/he has a direct or indirect financial or personal
9 interest. The City Attorney or his or her designee
10 shall be the legal advisor to the EBEC.

11 SECTION 9. POWERS AND DUTIES OF THE EBEC. The
12 Emerging Business Enterprise Council shall:

13 (a) Develop a survey to determine the number of
14 local EBE vendors and contractors, annually send out
15 the survey, review the results and make recommendations
16 to the Mayor and the Common Council concerning any
17 necessary adjustments in the participation goals herein
18 stated.

19 (b) Maintain a current list of all certified
20 emerging business enterprises;

21 (c) Develop rules, regulations and procedures for
22 assuring participation of EBES in City contracts,
23 subject to approval by the Mayor.

24 (d) Assist the Administrator of Contract
25 Compliance in developing rules, regulations and
26 procedures governing requests from contractors for a
27 waiver of the participation goals, subject to approval
28 by the Mayor;

29 (e) Develop a grievance procedure for processing
30 complaints received by an EBE aggrieved by its
31 treatment in seeking participation in City contracts,
32 the EBE program and other matters covered by this
ordinance, subject to approval by the Mayor;

1 (f) Establish a communication system to enhance
2 information dissemination to emerging business
3 enterprises;

4 (g) Assist in the arrangement of business
5 associations among emerging and established businesses;

6 (h) Serve as a clearinghouse for information
7 about training and educational programs available to
8 economically disadvantaged individuals and emerging
9 business enterprises;

10 (i) Serve as a clearinghouse for information
11 about financial and other resources available to
12 economically disadvantaged individuals and emerging
13 business enterprises.

14 (j) Develop a subcommittee of four (4) members to
15 serve as liaison with the City's Community and Economic
16 Development Division and other local and state economic
17 development agencies for the purpose of coordinating
18 economic development programs for emerging business
19 enterprises;

20 (k) Submit an annual, written report, to the
21 Mayor and Common Council, detailing the progress made
22 in achieving the participation goals herein set forth.

23 SECTION 10. CERTIFICATION STANDARDS AND PROCEDURES.

24 All emerging business enterprise bidders, prime
25 contractor, subcontractors and potential participants in a
26 contract must be certified by the Administrator of Contract
27 Compliance. In determining economic disadvantage for purposes
28 of certification, the factors enumerated in Section 3(d) and
29 (e), above shall be considered.

30 SECTION 11. ENFORCEMENT

31 (a) If the Administrator of Contract Compliance
32 determines that a contractor has failed to comply with
the terms of this Ordinance while working on a City
contract, the Administrator of Contract Compliance

1 shall serve written notice of such non-compliance on
2 the contractor.

3 (b) The contractor determined to be in non-
4 compliance shall meet with the Administrator of
5 Contract Compliance within five (5) working days of the
6 written notice in order to determine a method of
7 correcting the deficiencies and the time period within
8 which such remedy shall become effective. If the
9 remedy is not agreed upon within the five (5) working
10 days, the Administrator of Contract Compliance shall
11 recommend the remedy for correcting the deficiencies
12 and send written notification to the contractor of such
13 recommendation. If the contractor does not implement
14 the recommendation as prescribed by the Administrator
15 of Contract Compliance within thirty (30) calendar days
16 of receipt of said recommendation, the City will impose
17 one or more of the following sanctions:

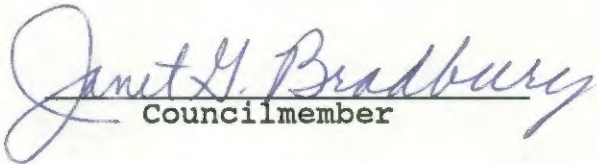
- 18 (1) Withholding of payments,
19 (2) Termination, suspension or cancellation
20 of the contract in whole or in part, or
21 (3) Debarment.

22 SECTION 12. SANCTIONS. Every City contract awarded
23 shall contain language stating that any person or entity that
24 misrepresents the status of any concern as an emerging
25 business enterprise or any person as an economically
26 disadvantaged individual in order to obtain for oneself or
27 another any of the contracting opportunities set forth in this
28 ordinance will be subject to one or more of the following
29 sanctions:

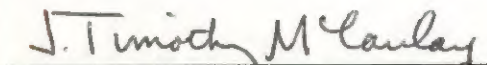
- 30 (1) Decertification,
31 (2) Debarment,
32 (3) Withholding of payment, or
(4) Termination, suspension or cancellation
of the contract in whole or in part.

1 SECTION 13. SEVERABILITY. If any provision of this
2 ordinance or any section, sentence, clause, phrase, work or
3 application thereof, in any circumstances is held invalid, the
4 validity of the remainder of the ordinance and of the
5 application of any other provision, section, sentence, clause,
6 phrase or word shall not be affected. In the event that this
7 ordinance is found to be in substantial conflict with any
8 applicable state or federal law, then in that event only, this
9 ordinance or the conflicting sections thereof shall be held
10 invalid, and the state or federal law shall govern.

11 SECTION 14. EFFECTIVE DATE. This Ordinance shall be
12 in effect upon passage and approval by the Mayor. This
13 Ordinance shall be re-evaluated by Common Council (6) years
14 after its approval by the Mayor, at which time the ordinance
15 shall lapse unless reinstated.

16
17 
18 Councilmember

19 APPROVED AS TO FORM
20 AND LEGALITY

21 
22 J. Timothy McCaulay, City Attorney
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32

Read the first time in full and on motion by Sup,
seconded by Merino, and duly adopted, read the second time by
title and referred to the Committee on Legislation (and the
City Plan Commission for recommendation) and Public Hearing to be held after
due legal notice, at the Common Council Conference Room 128, City-County
Building, Fort Wayne, Indiana, on June, the 13th, day
of July, 19 90, at 7:00 o'clock P.M., E.S.T.

DATED: 6-12-90

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by _____,
seconded by _____, and duly adopted, placed on its passage.
PASSED LOST by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	_____	_____	_____	_____
<u>BRADBURY</u>	_____	_____	_____	_____
<u>BURNS</u>	_____	_____	_____	_____
<u>EDMONDS</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	_____	_____	_____	_____
<u>HENRY</u>	_____	_____	_____	_____
<u>LONG</u>	_____	_____	_____	_____
<u>REDD</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	_____	_____	_____	_____
<u>TALARICO</u>	_____	_____	_____	_____

DATED: _____

SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. _____
on the _____ day of _____, 19 _____

ATTEST:

(SEAL)

SANDRA E. KENNEDY, CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the _____ day of _____, 19 _____,
at the hour of _____ o'clock _____ M., E.S.T.

SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this _____ day of _____,
19 _____, at the hour of _____ o'clock _____ M., E.S.T.

PAUL HELMKE, MAYOR